



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

March 26, 2004

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VIA FEDERAL EXPRESS

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 – 12th Street, S.W.
Washington, D.C. 20554

Ms. Irene Flannery
Vice President – High Cost
& Low Income Division
Universal Service Administrative Company
2120 L Street, N.W. Suite 600
Washington, D.C. 20037

Re: CC Docket 96-45, USF Certification as Required by 47 C.F.R. § 54.314

Ms. Dortch and Ms. Flannery:

Pursuant to 47 C.F.R. § 54.314 and on the basis described below, the Washington Utilities and Transportation Commission (WUTC) has received a letter from the following entities certifying that federal high-cost support funds will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended: AT&T Wireless PCS of Cleveland, LLC, AT&T Wireless Services of Washington, LLC, Spokane Cellular Telephone Company, Yakima Cellular Telephone Company, Bremerton Cellular Telephone Company, Olympia Cellular Telephone Company, Inc., Bellingham Cellular Partnership and Hood River Cellular Telephone Company, Inc. (collectively "AT&T Wireless").

The WUTC granted the petition for ETC designation for the above named licensees and AT&T Wireless at its regularly scheduled Open Meeting of March 12, 2004. *Open Meeting Minutes, p 1*. A copy of the approved petition is enclosed, as is a copy of the certification received from AT&T Wireless.

The Commission certifies AT&T Wireless' compliance with 47 C.F.R. § 54.314(a) based entirely on the corporate officer certification. This certification applies only for support provided in calendar year 2004.

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Ms. Dortch and Ms. Flannery

Page 2

March 26, 2004

If you have any questions regarding this letter, please contact Robert Shirley at bshirley@wutc.wa.gov or at (360) 664-1292.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carole J. Washburn".

CAROLE J. WASHBURN

Executive Secretary

Enclosures: Minutes
AT&T Wireless Petition
AT&T Wireless Certification

MINUTES
MARCH 12, 2004
9:30 a.m.

PRESENT: Marilyn Showalter, Chairwoman
Richard Hemstad, Commissioner
Pat Oshie, Commissioner

The regular meeting of the Washington Utilities and Transportation Commission was called to order on Wednesday, March 12, 2003, by Marilyn Showalter. Dixie Linnenbrink, Director of Regulatory Services, noted that there is an Addendum to the Agenda.

E)1. 1-000 Consent Agenda

Disposition: Commissioner Hemstad moved to approve the consent agenda and direct the Secretary to sign orders and/or letters necessary to affect each action. Commissioner Oshie seconded the motion. The motion carried (3:0).

UTILITIES

A)1. 1-15 Docket Number UT-043011 Petition of AT&T Wireless PCS of Cleveland, LLC, AT&T Wireless Services of Washington, LLC, Spokane Cellular Telephone Company, Yakima Cellular Telephone Company, Bremerton Cellular Telephone Company, Olympia Cellular Telephone Company, Inc., Bellingham Cellular Partnership, and Hood River Cellular Telephone Company, Inc., for designation as an eligible telecommunications carrier. Petition

Appearances: Bob Shirley, staff; Richard Finnigan and Robert Snyder, WITA; Phil Schenkenburg & Karl Korsmo, AT&T Wireless

Disposition: Commissioner Hemstad moved to designate AWS (d/b/a AT&T Wireless) as an Eligible Telecommunications Carrier (ETC) for the exchanges listed in Exhibits B and C of the petition, and direct AWS to provide a map of its service areas in .shp format. Commissioner Oshie seconded the motion. The motion carried (3:0).

A)2. 3-285 Docket Number UW-040232 Stroh's Water Company, Inc. Contract to provide line extension and fire flow to the Believers Fellowship Church. Contract

Appearances: Jim Ward, staff

Disposition: Commissioner Hemstad moved to issue a Complaint and Order Suspending the Contract. Commissioner Oshie seconded the motion. The motion carried (3:0).

TRANSPORTATION

B)1. 3-380 Docket Number TG-040157 Redesign of Class A and B Solid Waste Annual Report. Special Project

Appearances: Bob Colbo, staff; Brad Loveaas & Jim Sells,
WRRRA

Disposition: Commissioner Hemstad moved to adopt the newly proposed, combined Class A & B Solid Waste Annual Report form. Commissioner Oshie seconded the motion. The motion carried (3:0)

B)2. 3-410 Docket Number TR-030559 Tacoma Rail Petition to amend order regarding traffic control and train operations at Main Street, Centralia, WA. WUTC Crossing No. 20J 14.20, DOT Crossing No. 396769W. Petition

Appearances: Mike Rowswell, staff

Disposition: Commissioner Hemstad moved to issue orders in Dockets TR-030559 through TR-030562, TR-040347 through TR-040351, and TR-040357 through TR-040359, granting Tacoma Rail's petitions for changes in traffic control procedures on conditions recommended by Staff with the exception of the request to flag crossings using vehicles. Commissioner Oshie seconded the motion. The motion carried (3:0).

B)3. 3-410 Docket Number TR-030560 Tacoma Rail Petition to amend order regarding traffic control and train operations at Locust Street, Centralia, WA. WUTC Crossing No. 20J 14.30, DOT Crossing No. 396770R. Petition

Appearances: Mike Rowswell, staff

Disposition: Commissioner Hemstad moved to issue orders in Dockets TR-030559 through TR-030562, TR-040347 through TR-040351, and TR-040357 through TR-040359, granting Tacoma Rail's petitions for changes in traffic control procedures on conditions recommended by Staff with the exception of the request to flag crossings using vehicles. The latter request should be denied. Commissioner Oshie seconded the motion. The motion carried (3:0).

B)4. 3-410 Docket Number TR-030561 Tacoma Rail Petition to amend order regarding traffic control and train operations at 1st Street, Centralia, WA. WUTC Crossing No. 20J 13.90, DOT Crossing No. 396768P. Petition

Appearances: Mike Rowswell, staff

Disposition: Commissioner Hemstad moved to issue orders in Dockets TR-030559 through TR-030562, TR-040347 through TR-040351, and TR-040357 through TR-040359, granting Tacoma Rail's petitions for changes in traffic control procedures on conditions recommended by Staff with the exception of the request to flag crossings using vehicles. Commissioner Oshie seconded the motion. The motion carried (3:0).

B)5. 3-410 Docket Number TR-030562 Tacoma Rail Petition to amend order regarding traffic control and train operations at Alder Street. WUTC Crossing No. 20J 14.70, DOT Crossing No. 396776G. Petition

Appearances: Mike Rowswell, staff

Disposition: Commissioner Hemstad moved to issue orders in Dockets TR-030559 through TR-030562, TR-040347 through TR-040351, and TR-040357 through TR-040359, granting Tacoma Rail's petitions for changes in traffic control procedures on conditions recommended by Staff with the exception of the request to flag crossings using vehicles. Commissioner Oshie seconded the motion. The motion carried (3:0).

B)6. 3-410 Docket Number TR-040347 Tacoma Rail Petition for an order establishing traffic control procedures for the railroad at Tilley Road/SR 121, WUTC Crossing No. 20H 47.20, DOT Crossing No. 396749K. Petition

Appearances: Mike Rowswell, staff

Disposition: Commissioner Hemstad moved to issue orders in Dockets TR-030559 through TR-030562, TR-040347 through TR-040351, and TR-040357 through TR-040359, granting Tacoma Rail's petitions for changes in traffic control procedures on conditions recommended by Staff with the exception of the request to flag crossings using vehicles. Commissioner Oshie seconded the motion. The motion carried (3:0).

B)7. 3-410 Docket Number TR-040348 Tacoma Rail Petition for an order establishing traffic control procedures for the railroad at 204th Street. WUTC Crossing No. 20G 13.00, DOT Crossing No. 397136K. Petition

Appearances: Mike Rowswell, staff

Disposition: Commissioner Hemstad moved to issue orders in Dockets TR-030559 through TR-030562, TR-040347 through TR-040351, and TR-040357 through TR-040359, granting Tacoma Rail's petitions for changes in traffic control procedures on conditions recommended by Staff with the exception of the request to flag crossings using vehicles. Commissioner Oshie seconded the motion. The motion carried (3:0).

B)8. 3-410 Docket Number TR-040349 Tacoma Rail Petition for order establishing traffic control procedures for the railroad at 82nd Street. WUTC Crossing No. 20G 16.20, DOT Crossing No. 397137S. Petition

Appearances: Mike Rowswell, staff

Disposition: Commissioner Hemstad moved to issue orders in Dockets TR-030559 through TR-030562, TR-040347 through TR-040351, and TR-040357 through TR-040359, granting Tacoma Rail's petitions for changes in traffic control procedures on conditions recommended by Staff with the exception of the request to flag crossings using vehicles. Commissioner Oshie seconded the motion. The motion carried (3:0).

B)9. 3-410 Docket Number TR-040350 Tacoma Rail Petition for order establishing traffic control procedures for the railroad at 224th Street. WUTC Crossing No. 20G 16.90, DOT Crossing No. 397138Y. Petition

Appearances: Mike Rowswell, staff

Disposition: Commissioner Hemstad moved to issue orders in Dockets TR-030559 through TR-030562, TR-040347 through TR-040351, and TR-040357 through TR-040359, granting Tacoma Rail's petitions for changes in traffic control procedures on conditions recommended by Staff with the exception of the request to flag crossings using vehicles. Commissioner Oshie seconded the motion. The motion carried (3:0).

B)10. 3-410 Docket Number TR-040351 Tacoma Rail Petition for order establishing traffic control procedures for the railroad at Orting-Appling Highway. WUTC Crossing No. 20G 23.05, DOT Crossing No. 397148E. Petition

Appearances: Mike Rowswell, staff

Disposition: Commissioner Hemstad moved to issue orders in Dockets TR-030559 through TR-030562, TR-040347 through TR-040351, and TR-040357 through TR-040359, granting Tacoma Rail's petitions for changes in traffic control procedures on conditions recommended by Staff with the exception of the request to flag crossings using vehicles. Commissioner Oshie seconded the motion. The motion carried (3:0).

B)11. 3-410 Docket Number TR-040357 Tacoma Rail Petition to amend order (TR-1633) regarding traffic control and train operations at SR-161. WUTC Crossing No. 20G 17.90, DOT Crossing No. 397139F. Petition

Appearances: Mike Rowswell, staff

Disposition: Commissioner Hemstad moved to issue orders in Dockets TR-030559 through TR-030562, TR-040347 through TR-040351, and TR-040357 through TR-040359, granting Tacoma Rail's petitions for changes in traffic control procedures on conditions recommended by Staff with the exception of the request to flag crossings using vehicles. Commissioner Oshie seconded the motion. The motion carried (3:0).

B) 12. 3-410 Docket Number TR-040358 Tacoma Rail Petition to amend order (TR-1700) regarding traffic control and train operations at SR-7, Elbe, WA. WUTC Crossing No. 20G 44.10, DOT Crossing No. 397175B. Petition

Appearances: Mike Rowswell, staff

Disposition: Commissioner Hemstad moved to issue orders in Dockets TR-030559 through TR-030562, TR-040347 through TR-040351, and TR-040357 through TR-040359, granting Tacoma Rail's petitions for changes in traffic control procedures on conditions recommended by Staff with the exception of the request to flag crossings using vehicles. Commissioner Oshie seconded the motion. The motion carried (3:0).

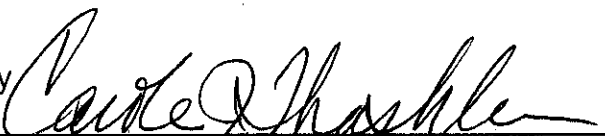
B) 3. 3-410 Docket Number TR-040359 Tacoma Rail Petition to amend order (TR-1797) regarding traffic control and train operations at SR-7, Morton, WA. WUTC Crossing No. 20G 64.20, DOT Crossing No. 397209T. Petition

Appearances: Mike Rowswell, staff

Disposition: Commissioner Hemstad moved to issue orders in Dockets TR-030559 through TR-030562, TR-040347 through TR-040351, and TR-040357 through TR-040359, granting Tacoma Rail's petitions for changes in traffic control procedures on conditions recommended by Staff with the exception of the request to flag crossings using vehicles. Commissioner Oshie seconded the motion. The motion carried (3:0).

The meeting adjourned at 3:52 p.m.

Attested by


Carole J. Washburn, Secretary

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SAINT PAUL, MINNESOTA 55101
TELEPHONE (651) 808-6600
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BRIGGS AND MORGAN

PROFESSIONAL ASSOCIATION

WRITER'S DIRECT DIAL

(651) 808-6578

WRITER'S E-MAIL

pschenkenberg@briggs.com

February 19, 2004

VIA FEDERAL EXPRESS

Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250

Re: **In the Matter of the Petition of AT&T Wireless PCS of Cleveland, et al.
For Designation as an Eligible Telecommunications Carrier under
47 U.S.C. § 214(e)(2)**

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04 FEB 20 AM 9:33
STATE OF WASH.
UTIL. AND TRANSPORTATION
COMMISSION

Dear Sir/Madam:

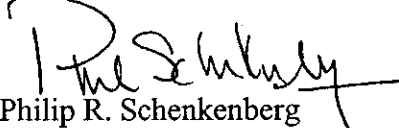
Enclosed for filing in connection with the above-referenced matter please find an original and 12 copies of the Petition for Designation as an Eligible Telecommunications Carrier.

Please enter both Cindy Manheim and myself to the Service List for this matter:

Cindy Manheim, Esq.
AT&T Wireless Services, Inc.
Regulatory Counsel - External Affairs
7277 - 164th Avenue N.E.
Redmond, WA 98052
Telephone: 425-580-8112
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Very truly yours,


Philip R. Schenkenberg

PRS/smo
Enclosures
cc: Cathy Massey
David Li

Before the
Washington Utilities and Transportation Commission

| | | |
|---------------------------------------|---|--------------------|
| In the Matter of the Petition of |) | Docket No. _____ |
| |) | |
| AT&T Wireless PCS of Cleveland, LLC; |) | |
| AT&T Wireless Services of Washington, |) | |
| LLC; Spokane Cellular Telephone |) | |
| Company; Yakima Cellular Telephone |) | PETITION FOR |
| Company; Bremerton Cellular Telephone |) | DESIGNATION |
| Company; Olympia Cellular Telephone |) | AS AN ELIGIBLE |
| Company, Inc.; Bellingham Cellular |) | TELECOMMUNICATIONS |
| Partnership and Hood River Cellular |) | CARRIER |
| Telephone Company, Inc. |) | |
| |) | |
| For Designation as an Eligible |) | |
| Telecommunications Carrier |) | |
| Under 47 U.S.C. § 214(e)(2) |) | |
| |) | |

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STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

AT&T Wireless PCS of Cleveland, LLC; AT&T Wireless Services of Washington, LLC; Spokane Cellular Telephone Company; Yakima Cellular Telephone Company; Bremerton Cellular Telephone Company; Olympia Cellular Telephone Company, Inc.; Bellingham Cellular Partnership and Hood River Cellular Telephone Company, Inc., subsidiary licensees of AT&T Wireless Service, Inc. (collectively "AWS"), submit this Petition for Designation as an Eligible Telecommunications Carrier ("ETC") pursuant to Section 214(e)(2) of the Telecommunications Act of 1934, as amended ("Act"), 47 U.S.C. § 214(e)(2), and Federal Communications Commission Rule 54.201. AWS requests that it be designated as eligible to receive available support from the federal Universal Service Fund ("USF") including, but not limited to, support for rural, insular and high-cost areas and low-income customers. In support of this Petition, the following is respectfully shown:

I. Name and Address of Petitioner

1. The names of the Petitioners are: AT&T Wireless PCS, LLC; AT&T Wireless PCS of Cleveland, LLC; AT&T Wireless Services of Washington, LLC; Spokane Cellular Telephone Company; Yakima Cellular Telephone Company; Bremerton Cellular Telephone Company; Olympia Cellular Telephone Company, Inc.; Bellingham Cellular Partnership and Hood River Cellular Telephone Company, Inc. The Petitioners are subsidiary licensees of AT&T Wireless Services, Inc. The address of the Petitioners is 7277 164th Avenue N.E., Building 1, Redmond, Washington 98052.

II. Applicable Statutes and Rules

2. The statutes and rules implicated by the instant Petition are as follows: 47 U.S.C. §§ 153(27), 153(44), 214(e), 253(b) and 254(d); 47 C.F.R. §§ 51.5, 54.5, 54.101, 54.201, 54.207, 54.307, 54.313, and 54.314.

III. Authorization, Service Area and Company Background

3. AWS offers wireless services throughout the United States and provides services to more than 20,000,000 subscribers nationwide. AWS is headquartered in Redmond, Washington, and employs more than 6,000 people in the state.

4. AWS is authorized by the FCC to provide commercial mobile radio services ("CMRS") throughout 31 of 39 counties in the state of Washington. AWS has been designated as an ETC in Puerto Rico and has applications pending in the states of Alabama and Mississippi.

5. To be designated as an ETC, an applicant must be a "common carrier." A common carrier is defined as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio" 47 U.S.C. § 153(10). The FCC has determined that CMRS constitutes a "common carrier" service. *See* 47 C.F.R. § 20.9. As a CMRS provider, AWS therefore meets the federal definition of common carrier for purposes of ETC designation.

6. AWS is authorized by the FCC as the A, B, C, D, E and/or F Block licensee through all or part of the following license areas:

| <u>Major Trading Areas ("MTAs")</u> | <u>MarketName</u> |
|-------------------------------------|------------------------------|
| MTA 24 | Seattle, WA |
| MTA 42 | Spokane-Billings |
| <u>Basic Trading Areas ("BTAs")</u> | <u>MarketName</u> |
| BTA 2 | Aberdeen, WA |
| BTA 36 | Bellingham, WA |
| BTA 55 | Bremerton, WA |
| BTA 228 | Kennewick-Pasco-Richland, WA |
| BTA 261 | Longview, WA |
| BTA 331 | Olympia-Centralia, WA |
| BTA 356 | Port Angeles, WA |
| BTA 413 | Seattle-Tacoma, WA |
| BTA 425 | Spokane, WA |
| BTA 468 | Wenatchee, WA |
| BTA 482 | Yakima, WA |

| <u>Metropolitan Service Areas ("MSAs")</u> | <u>Market Name</u> |
|--|------------------------|
| MSA 20 | WA-06 |
| MSA 30 | Bellingham, WA |
| MSA 82 | Bremerton, WA |
| MSA 109 | Richland Kennewick, WA |
| MSA 191 | Richland Kennewick, WA |
| MSA 212 | WA-08 |
| MSA 214 | WA-08 |
| MSA 242 | WA-06 |
| MSA 270 | WA-06 |

| <u>Rural Service Areas ("RSAs")</u> | <u>MarketName</u> |
|-------------------------------------|-------------------|
| RSA 693 | WA-01 |
| RSA 696 | WA-1, Seattle |
| RSA 697 | WA-05 |
| RSA 698 | Spokane, WA |
| RSA 700 | WA-05, Yakima |

A map showing the scope of these licensed areas is attached as Exhibit A.

7. AWS currently provides wireless voice and data services over two separate, overlapping networks. One network uses time division multiple access ("TDMA") as its signal transmission technology. AWS also provides voice and enhanced data services over a separate network that uses the signal transmission technology known as global system for mobile communications ("GSM") and general packet radio service ("GPRS"). As of September 30, 2003, these two networks covered an aggregate population of approximately 224 million, or 77% of the U.S. population. With the implementation of its new EDGE technology, AWS has more than tripled the speed of its GPRS wireless data network, making it nearly twice the speed of any other national wireless network. AWS also provides voice service over its analog network and its data service over a network utilizing packet switched data technology (CDPD). AWS is currently phasing out its CDPD network as it converts to GSM/EDGE service.

8. AWS supplements its own networks with roaming agreements that allow its subscribers to use other providers' wireless services in regions where AWS does not have

~~existing network coverage. AWS also offers multi-mode handset devices which allow its~~
subscribers to access analog, TDMA and GSM/GPRS networks providing them access to
wireless service across the United States.

9. A telecommunications carrier may be designated as an ETC and receive universal service support throughout its designated service area if it agrees to: (i) offer services that are supported by federal universal service support mechanisms, and (ii) advertise the availability of such services.¹ In its *Universal Service Order* implementing Sections 214(e) and 254, the FCC set forth the services a carrier must provide to be designated as an ETC in order to receive federal universal service support.²

10. Section 214(e)(2) of the Act provides that ETC designations shall be made for a "service area" designated by the state commission. In areas served by a non-rural company, the state commission may establish an ETC service area for a competitor without federal concurrence.³ Accordingly, AWS requests designation for its service area in the non-rural wire exchanges listed in Exhibit B, attached hereto.

11. In areas served by a rural telephone company, "service area" means the local exchange carrier ("LEC") study area unless and until the FCC and the states, taking into account recommendations of a Federal-State Joint Board on Universal Service, establish a different definition of service area for such company.⁴ On August 17, 1998, the Washington Utilities and Transportation Commission ("WUTC" or "Commission") and 20 rural LECs filed a petition requesting the FCC's agreement with the WUTC's designation of the individual exchanges of 15

¹ See 47 U.S.C. § 214(e)(1).

² *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, *Report and Order*, FCC 97-157 ¶¶ 63- 82 (rel. May 8, 1997) ("*Universal Service Order*").

³ See 47 U.S.C. § 214(e)(5).

⁴ See 47 C.F.R. § 54.207(b).

_____ rural LECs as their "service areas" for universal service purposes. The petition also requested a waiver of 47 C.F.R. § 54.307, to permit the disaggregation of high-cost support to Washington's rural carriers. In a Memorandum Opinion and Order released September 9, 1999,⁵ the FCC agreed with the WUTC's proposed service area designation, stating that redefinition along exchange-area boundaries was "warranted in order to promote competition."⁶

12. The FCC also granted the proposed waiver of Section 54.307, permitting the disaggregation of high-cost support on an interim basis pending the development of a new mechanism for the calculation and distribution of support.⁷ In fact, pursuant to the *Fourteenth Report and Order* released in May 2001, several LECs in Washington submitted filings to the WUTC to select among the three enumerated paths defining the manner in which support is to be calculated and distributed on a going-forward basis.⁸ The computation and distribution of high-cost support resulting from those filings will supersede the portions of the *Designation Order* that pertain to disaggregation.⁹

13. Accordingly, the non-rural telephone company exchanges for which AWS seeks designation are listed in Exhibit C, attached hereto.

⁵ See *Petition for Agreement with Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distributing Portable Federal Universal Service Support*, Memorandum Opinion and Order, CC Docket No. 96-45, Memorandum Opinion and Order, DA 99-1844, ¶ 8 (rel. Sept. 9, 1999) ("*Designation Order*").

⁶ *Id.*

⁷ *Id.*

⁸ See 47 C.F.R. § 54.315; *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, *Fourteenth Report and Order*, *Twenty Second Order on Reconsideration*, and *Further Notice of Proposed Rulemaking*, CC Docket No. 00-256, *Fourteenth Report and Order*, FCC 01-157, ¶¶ 144-164 (rel. May 23, 2001).

⁹ See *Designation Order*, ¶ 8.

14. Exhibit D demonstrates that the exchanges on Exhibits B and D are within AWS' license areas.

IV. AWS Offers the Supported Services to Qualify for Federal USF Support

15. Section 214(e)(1) of the Act and Section 54.201(d) of the FCC's rules provide that carriers designated as ETCs shall, throughout their service area, (1) offer the services that are supported by federal universal service support mechanisms either using their own facilities or a combination of their own facilities and resale of another carrier's services, and (2) advertise the availability of such services and the charges therefore using media of general distribution.¹⁰ The services which are supported by the federal USF are:

- 1) voice grade access to the public switched network;
- 2) local usage;
- 3) dual tone multi-frequency signaling or its functional equivalent;
- 4) single-party service or its functional equivalent;
- 5) access to emergency services;
- 6) access to operator services;
- 7) access to interexchange service;
- 8) access to directory assistance; and
- 9) toll limitation for qualifying low-income consumers.¹¹

AWS provides all of the nine supported services in satisfaction of the requirements of Section 214(e)(1) of the Act. AWS accepts the obligation to offer these services throughout the state upon reasonable request in full compliance with the obligation of an ETC.

16. Voice Grade Access. "Voice grade access" permits a telecommunications user to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal that there is an incoming call. The FCC has determined that voice grade access to the public switched telephone network

¹⁰ 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d).

¹¹ 47 C.F.R. § 54.101(a).

means the ability to make and receive calls with a minimum bandwidth of 300 to 3000 Hertz.¹²

Through its interconnection agreement with local exchange carriers (LECs) in Washington, all of AWS' customers are currently able to make and receive calls on the public switched telephone network within the specified bandwidth.

17. Local Usage. "Local usage" is defined as an amount of minutes of use of exchange service, as prescribed by the FCC, provided free of charge to end users. 47 C.F.R. § 54.101(2). To date, the FCC has not prescribed any minimum amount of local usage required to be provided by any ETC, and has confirmed that unlimited local usage is not required by any ETC.¹³ AWS will include local usage in all of its universal service offerings within AWS' defined local service areas as part of its monthly service packages. In addition, AWS will comply with any specific local usage requirements adopted by the FCC and required of federal ETCs in the future.

18. DTMF Signaling. "Dual Tone Multi-Frequency" (DTMF) is a method of signaling that facilitates the transportation of call set-up and call detail information. DTMF makes "touchtone" dialing possible by facilitating the transportation of signaling through the network. The FCC has recognized that "wireless carriers use out-of-band signaling mechanisms [It] is appropriate to support out-of-band signaling mechanisms as an alternative to DTMF signaling." *Universal Service Order*, ¶ 71. AWS currently uses out-of-band digital signaling and in-band multi-frequency signaling that is the functional equivalent to DTMF signaling, in accordance with the FCC's requirements.

¹² *Universal Service Order*, ¶¶ 63-64.

¹³ *In the Matter of Federal-State Board on Universal Service*, CC Docket 96-45, *Order and Order on Reconsideration*, FCC 03-170, ¶ 15 (rel. July 14, 2003) ("*July 14 Order*").

19. Single Party Service. "Single-party service" permits the exclusive use of a particular subscriber loop or access line by a single subscriber. The FCC has determined that a CMRS provider meets the requirement of offering single party service when it offers a dedicated message path for the length of a user's particular transmission.¹⁴ AWS meets the requirement of single-party service by providing a dedicated message path for the length of a user's wireless transmission in all of its service offerings.

20. Access to Emergency Services. "Access to emergency service" means the ability to reach a public service answering point ("PSAP") by dialing "911." The FCC requires that a carrier must provide access to enhanced 911 or "E911," which includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"), when the PSAP is capable of receiving such information and the service is requested from the carrier.¹⁵ AWS currently provides all of its customers in Washington with the ability to access emergency services by dialing "911." AWS is also capable of delivering ANI and ALI information over its existing network and is in compliance with all applicable federal E911 requirements. AWS will continue to work with local PSAPs within its ETC service areas to make E911 service available according to the FCC's requirements.

21. Access to Operator Services. "Access to operator services" means any automatic or live assistance provided to a customer to arrange for the billing or completion, or both, of a telephone call.¹⁶ AWS meets this requirement by providing all of its customers with access to operator services provided either by AWS or other entities.

¹⁴ 47 C.F.R. § 54.101(a)(4); *Universal Service Order*, ¶ 62.

¹⁵ 47 C.F.R. § 20.18(j); *Universal Service Order*, ¶ 73.

¹⁶ 47 C.F.R. § 54.101(a)(6); *Universal Service Order*, ¶ 75.

22. Access to Interexchange Services. "Access to interexchange service" means offering a service to customers to make and receive toll or interexchange calls. Equal access to interexchange service – *i.e.*, the ability of a customer to access a presubscribed long distance carrier by dialing 1+number – is not a required service or functionality.¹⁷ AWS currently meets this requirement by providing all of its subscribers in with the ability to make and receive interexchange or toll calls.

23. Access to Directory Assistance. "Access to directory assistance" means the ability to provide access to a service that makes directory listings available.¹⁸ AWS currently meets this requirement by providing all of its customers with access to directory assistance by dialing "411" or "555-1212."

24. Toll Limitation. "Toll limitation" includes the offering of either "toll control" or "toll blocking" to qualifying low-income customers, as a means of limiting or blocking the completion of outgoing toll calls.¹⁹ An ETC is not required to provide both services if the carrier is incapable of providing both. 47 C.F.R. § 54.400(d). AWS cannot provide toll control, but can provide toll blocking. AWS will thus meet the toll limitation requirement by providing toll blocking. Once designated an ETC, AWS will participate in Lifeline and Link Up programs for low-income consumers, and will offer toll blocking to its Lifeline customers at no additional charge.

25. Pursuant to Section 54.201 of the FCC's rules, AWS will advertise the availability of each of the supported services detailed above, throughout its licensed service area, by media of general distribution. AWS currently advertises its services through many different media,

¹⁷ *Universal Service Order*, ¶ 78; *see also July 14 Order*, ¶¶ 33-34. CMRS providers are not required to provide equal access under 47 U.S.C. § 332(c)(8).

¹⁸ 47 C.F.R. § 54.101(a)(8).

¹⁹ 47 C.F.R. § 54.400(b)-(d); *Universal Service Order*, ¶ 82.

including television and radio, newspaper, magazine and other print advertisements, as well as outdoor advertising, retail stores, direct marketing and the Internet. AWS will continue to use media of general distribution to advertise its universal service qualifying offerings throughout its designated ETC service areas. AWS will comply with all form and content requirements, if any, promulgated in the future and required of all designated ETCs.

V. Participation in Low Income Programs

26. All ETCs must participate in the federal Lifeline and Link Up programs. Lifeline is a discount off the monthly charge for a company's lowest-cost offering. 47 C.F.R. § 54.401. Link Up is a discount off of a one-time activation charge. 47 C.F.R. § 54.411.

27. AWS can and will participate in the FCC's Lifeline and Link Up programs. AWS anticipates a Lifeline offering that will be priced at \$19.99 per month (before the discount), and provide customers with 145 anytime minutes. Free night and weekend calling can be purchased for an additional \$5 per month. As required, toll blocking will be provided to those who request, and customers who choose toll blocking will be relieved of any deposit requirement.

28. AWS will also participate as required in providing additional discounts through the Washington Telephone Assistance Program as set forth in RCW 80.36.410 through 80.36.475 and WAC 480-122. AWS will work with the Department of Social and Health Services to ensure proper implementation of this program.

VI. Statement of Need

29. Many residents of Washington live in rural areas where it is cost-prohibitive for a competitive telecommunications company to offer service. As a result, consumers do not have the choices of service providers available in urban areas. AWS will use federal high-cost funding to expand in underserved areas, bringing needed infrastructure and economic development to those areas of the state.

30. By granting ETC status to AWS, this Commission will bring economic development, expedite the provision of competitive telephone service to the people living in remote areas, and provide more choice for subscribers in high-cost areas.

VII. Ability to Serve

31. As set forth on Exhibit A, AWS is licensed to serve in every exchange where it seeks designation. AWS either has built out, or is building out, those licenses in compliance with FCC guidelines.²⁰ AWS accepts the obligation to serve those who request services consistent with the obligations of an ETC.

32. As set forth on Exhibit D, AWS has not requested designation in every exchange where it is licensed. Instead, it has excluded exchanges outside of AWS' existing signal coverage based as its current network facilities and contemplated 2004 build out plans. As AWS expands into these exchanges in the future, it expects to seek to amend its designation to add these new areas.

33. Accordingly, the Commission should find that based on its licenses and existing coverage, AWS has the intent and ability to provide service throughout the exchanges set forth on Exhibits B and C hereto.

VIII. Granting AWS' Application Would Serve the Public Interest

34. In areas served by non-rural LECs, the Commission can designate AWS as an ETC upon finding that the company meets the nine-point checklist and that it agrees to advertise the supported services.²¹ In areas served by a rural telephone company, the Commission must

²⁰ Unlike other providers designated as ETCs in Washington, the range of AWS' licensed boundaries is based on county lines rather than cellular geographic service area, or "CGSA." PCS licenses follow county boundaries. AWS neither files nor generates CGSA for these PCS license areas.

²¹ 47 U.S.C. § 214(e)(2).

also determine whether granting ETC status to a competitor would serve the public interest.²²

Consistent with this Commission's prior decisions, and decisions of the FCC and state commissions, designating AWS as an ETC will save the public interest.²³

35. As this Commission has recognized, the FCC's established public interest analysis under Section 214(e)(6) seeks to balance the benefits of increased competition and consumer choice against any demonstrated adverse impacts to the consumer that might be caused by the designation.²⁴ The FCC has also recognized the advantages wireless carriers can bring to the universal service program. In particular, the FCC has found that "imposing additional burdens on wireless entrants would be particularly harmful to competition in rural areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service."²⁵ One of the principal goals of the Telecommunications Act of 1996 was to "promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."²⁶ The FCC has thus observed that "[d]esignation of qualified ETCs promotes

²² *Id.*

²³ See, e.g., *In the Matter of the Federal-State Joint Board on Universal Service, Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, *Memorandum Opinion and Order*, DA 00-2896, ¶ 11 (rel. Dec. 26, 2000) (emphasis added) ("*Wyoming Order*"); *Smith Bagley, Inc., Final Order*, Utility Case No. 3026 (Feb. 19, 2002) (New Mexico).

²⁴ *RCC Minnesota, Inc., d/b/a Cellular One, Order Granting Petition for Designation as an Eligible Telecommunications Carrier*, Docket No. UT-023033, ¶¶ 23-25 (Aug. 14, 2002) ("*RCC Order*"); see *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 03-338 (rel. January 22, 2004) ("*Virginia Cellular Order*").

²⁵ *Universal Service Order*, ¶ 190.

²⁶ Telecommunications Act of 1996, Public Law, 104-104, 100 Stat. 56 (1996).

competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies."²⁷

36. The WUTC has emphasized the public interest benefits that flow from competitive entry by wireless carriers in rural areas. For example, in its order granting the amended petition for ETC designation by United States Cellular ("USC"), the Commission stated:

The Commission believes it is in the public interest to grant USC's petition because rural customers will benefit from the increased availability of wireless service. These benefits include increased mobility and increased level of service.²⁸

The WUTC reached a similar conclusion in designating RCC Minnesota in 2002:

Granting ETC designation to RCC is in the public interest. It will facilitate the telecommunications choices available to rural citizens, support the growth of new technologies and services, preserve and advance universal service, and promote competition and the benefits it brings.²⁹

37. The FCC recognized this fact in its initial decision designating Western Wireless as an ETC in the State of Wyoming, observing: "Designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies."³⁰ By designating a wireless carrier as an ETC, the WUTC will foster competition and provide a meaningful choice of services and service providers to the residents of Washington.

²⁷ See *In the Matter of Federal-State Joint Board on Universal Service Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier for the Pine Ridge Reservation in South Dakota*, CC Docket No. 96-45, *Memorandum Opinion and Order*, FCC 01-283, ¶ 12 (rel. Oct. 5, 2001).

²⁸ *United States Cellular Corporation, et al., Third Supplemental Order Granting Petition for Designation as Eligible Telecommunications Carrier*, Docket No. UT-970345, ¶ 41 (Jan. 26, 2000) ("*Third Supplemental Order*").

²⁹ *RCC Order*, ¶ 68.

³⁰ *Wyoming Order*, ¶ 17.

38. The public interest standard under Section 214(e)(2) for designating ETCs in territories served by rural telephone companies emphasizes competition and consumer benefits, not incumbent protection. In considering the impact that Western Wireless' ETC designation in Wyoming would have on rural telephone companies, the FCC said:

We do not believe that it is self-evident that rural telephone companies cannot survive competition from wireless providers. Specifically, we find no merit to the contention that designation of an additional ETC in areas served by rural telephone companies will necessarily create incentives to reduce investment in infrastructure, raise rates, or reduce service quality to consumers in rural areas. To the contrary, we believe that competition may provide incentives to the incumbent to implement new operating efficiencies, lower prices, and offer better service to its customers.³¹

Further, Congress has mandated that universal service provisions be "competitively neutral" and "necessary to preserve and advance universal service."³² AWS will provide consumers with wider local calling areas, mobile communications, a variety of service offerings, high-quality service, and competitive rates. By offering customers new choices, the incumbent LECs will have an incentive to introduce new, innovative, or advanced service offerings.

39. Wireless telephone service will not emerge as a successful alternative to wireline service unless high-cost loop support is made available to drive infrastructure investment. Indeed, without the high-cost program it is doubtful that many rural areas would have wireline telephone service even today. Provision of high-cost support to AWS will begin to level the playing field with the incumbent LECs and make available for the first time a potential competitor for primary telephone service in remote areas of Washington.³³

³¹ *Wyoming Order*, ¶ 22.

³² See 47 U.S.C. § 253(b).

³³ See *Third Supplemental Order*, ¶ 43 ("The fact that its competitors receive universal service support puts USC at a disadvantage in its ability to make cellular technology more widely available at competitive prices. Allowing USC to receive universal service support increases the

40. The FCC has recently considered the effect on the universal service fund as additional ETCs are designated.³⁴ The FCC recognized that the effect of designating any one carrier is *de minimus*, and that the Joint Board is currently considering how funding mechanisms will be adjusted beginning in 2006.³⁵ This Commission should find that by designating competitive ETCs, it will enhance competition and increase network build out. By leveling the playing field the Commission will allow more efficient carriers to thrive. In the long run, pressures on state and federal universal service funds can be relieved only if efficient carriers are incented to build out and serve high cost areas.

41. Consistent with the FCC's established standards, designating AWS as an ETC will serve the public interest. First, AWS' designation will provide consumers in those areas with a broader choice of service offerings that can be tailored to fit their individual needs. Among other things, AWS is able to offer its subscribers a larger local calling area when compared to landline telephone companies, reduced long distance rates, competitive pricing and the benefits of mobility. AWS currently provides more wireless coverage in North America than any other carrier. AWS also offers the broadest coverage worldwide, enabling its subscribers to roam in 115 countries for voice service with a single phone and single number.

42. Second, AWS is able to offer its subscribers advanced services and technologies over its state-of-the-art network facilities which are used to provide the supported services. In the past two years alone, AWS has invested more than \$10 billion to optimize its wireless network, including the development of network infrastructure for the provision of next generation voice and data services. And with the implementation its new EDGE technology,

likelihood that cellular technology will become available to more rural consumers at an affordable price.").

³⁴ *Virginia Cellular*, ¶ 31.

³⁵ *Id.*

AWS has more than tripled the speed of its GPRS wireless data network, making it nearly twice the speed of any other national wireless network.

43. As AWS continues to develop and upgrade its wireless network, it has been able to offer consumers in rural and high-cost areas the same advanced features (e.g., voice-mail, caller-ID, call-waiting and call-forwarding) provided in urban areas. AWS has also worked consistently to expand the availability of such state-of-the-art technical innovations as wireless Internet, e-mail, paging service, text-messaging, digital photography and hand-held computing. Thus, an expanding number of AWS' Washington customers will be able to combine basic universal service and functionalities with these advanced services if they so desire.

44. Wireless technology and networks have been rapidly deployed over the past 15 years. This network expansion must continue if Washington consumers are to have full access to this technology in the future. The use of federal universal service support to provide universal services and extend wireless networks in rural and high-cost areas clearly benefits the public interest by ensuring these networks will be available to deliver basic and advanced services to all telecommunications consumers.

45. More importantly, designating AWS as an additional ETC will provide the incumbent companies with a competitive incentive to improve their own networks, offer advanced services at competitive prices and improve customer service in order to remain competitive. As noted above, the Commission and the FCC have both concluded that increased competition can be expected to lead to better service and the provision of new, innovative services for the benefit of consumers.³⁶

³⁶ *RCC Order*, ¶ 59; *Wyoming Order*, ¶¶ 16-22.

46. Finally, AWS' designation as an additional ETC will not threaten the provision of universal services by rural telephone companies. Under the current funding mechanisms, rural telephone companies will continue to receive funding based on an embedded cost methodology until 2006, and will not lose support if they lose lines to AWS as a competitor.³⁷ This extended transition period – as well as their continued receipt of implicit subsidies within intrastate access rates – ensures that rural telephone companies can move successfully to competitive markets.

IX. High-Cost Certification

47. Under FCC Rule Sections 54.313 and 54.314, carriers wishing to obtain high-cost support must either be certified by the appropriate state commission or, where the state commission does not exercise jurisdiction, self-certify with the FCC and the Universal Service Administrative Corporation ("USAC") their compliance with Section 254(e) of the Federal Telecommunications Act of 1996.³⁸ AWS certifies that it will use all support received for the purposes for which it is intended in compliance with law. AWS will comply with the Commission's certification requirement set forth in WAC 480-120-311(2).

X. Affidavit in Support of Application

48. Exhibit E hereto is an Affidavit of Karl Korsmo, Vice President of External Affairs, verifying the accuracy of the facts contained herein.

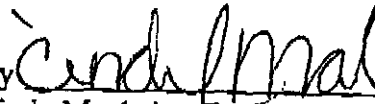
WHEREFORE, pursuant to Section 214(e)(2) of the Act, AWS respectfully requests that the Commission enter an Order designating AWS as an ETC for its requested ETC service area as shown on Exhibits B and C hereto.

³⁷ See *Fourteenth Report and Order*, ¶¶ 165-177.

³⁸ 47 C.F.R. §§ 54.313, 54.314.

Respectfully submitted,

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